

# **EXHIBIT A**



July 27, 2023

Dr. John Zhang  
New Hope Fertility Center  
4 Columbus Circle, 4<sup>th</sup> Floor  
New York, NY 10019

Dear Dr. Zhang:

I write to you on behalf of our client David H. Faux. Mr. Faux is a client of your clinic who, with patient Kaori Kato, born on 7/11/1973, have two of their offspring frozen as embryos stored with your facility.

On April 14 of this year, the New Hope Fertility Clinic began sending Mr. Faux a “Thaw & Discard” agreement to sign. See Exhibit 1. Our client has not signed this agreement and does not wish to sign this agreement. For over 100 days now, Mr. Faux has been seeking answers from your facility related to the health of his offspring at your facility, but they have continued to send him “Thaw & Discard” agreements instead, 67 times in fact.

The goal of this letter is to resolve Mr. Faux’s requests by August 4. Specifically,

1. What is the exact age/fertilization date of the two embryos?
2. A statement explaining the health of the embryos, particularly with regard to the possibility of successful surrogacy?
3. Please provide copies of the agreement(s) Mr. Faux signed in 2013.
4. Immediately cease sending thaw and discard agreements to Mr. Faux.

By way of further background, on May 3, through your clinic’s internal portal, Mr. Faux asked how many embryos were in storage and how old they were. On May 4, Ms. Wallace responded that there were two embryos, frozen on 7/14/13 and 7/15/13, but did not state their fertilization date/age. See Exhibit 2.

Mr. Faux then asked if the embryos were healthy and Ms. Dubman responded with their “grading” codes, i.e., EXBL 423 and BL 333. See Exhibit 3.

On May 8, Ms. Wallace informed Mr. Faux that his question about the health of the embryos had been forwarded to the genetic department for further assistance. See Exhibit 4.



That same day, Mr. Faux contacted your clinic's billing department about any payments in arrears for ongoing storage of the embryos and, on May 10, he paid \$1,200 to preserve the embryos for an additional year (ending January 14, 2024).

On May 15, Mr. Faux requested to see what documents he signed in 2013 when your clinic was first engaged. Later that day, Ms. Chowdhury sent Mr. Faux a Records Release Form to be signed by both Ms. Kato and him to effect disclosure of the requested documents. Mr. Faux facilitated Ms. Kato's signature, signed the release himself, and sent it back to the Records Department. See Exhibit 5. The records request was to be processed within 14 days (May 30), but Mr. Faux has still not received any documents.

On May 30, Mr. Faux called the clinic to further inquire about the health of the embryos. He was transferred to the nurse's station, which transferred him to the lab, at which point he was disconnected.

On June 6, Mr. Faux emailed Ms. Dubman and Chowdhury requesting answer to his requests by the end of that week. On June 8, Ms. Chowdhury responded that his requests had been sent to management who would answer his questions. See Exhibit 6. Mr. Faux called your clinic to speak to management that day but was told his name is not in their records. He was also told that someone from your clinic would return his call that day or the next. Mr. Faux never received a return call.

On June 16, Dominic Farole, Esq. called your clinic to request the information Mr. Faux had been requesting for over a month. He supplied your clinic with Ms. Kato's name and birthdate to facilitate receipt of these answers. Upon information and belief, your clinic never responded to Mr. Farole.

Please accept this letter as an effort to amicably and quickly resolve this matter and to bring your focus to the extraordinary delay he has experienced in his good faith attempts to learn about his embryos.

We believe that allowing until August 4 is more than sufficient time for the clinic to resolve Mr. Faux's queries.

You have his requests enumerated above and the fully executed Records Release Form attached hereto as Exhibit 5. Please let us know if you need anything further.

*/s/ Jeremy Samek*

Jeremy L. Samek, Esq.  
Senior Counsel